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Attorney for Plaintiff  
XU JUN LEE

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SC

XU JUN LEE

Plaintiff,

vs.

*Michael Chertoff*, Secretary of the Department  
of Homeland Security;  
*Emilio T. Gonzalez*, Director, U.S. Citizenship  
and Immigration Services;  
*Robin Barrett*, Field Office Director, San  
Francisco District Office, U.S. Citizenship and  
Immigration Services;  
*Robert S. Mueller*,  
Director of Federal Bureau of Investigation

Defendants.

C

Case No. 07

2685

PETITION FOR HEARING ON  
NATURALIZATION APPLICATION  
UNDER 8 U.S.C. § 1447(B)

COMES NOW Xu Jun LEE, Plaintiff in the above-styled and numbered cause, and for  
cause of action would show to the Court the following:

1. This action is brought for a hearing to decide Plaintiff's naturalization application due to  
Defendants' failure to adjudicate the application within 120 days after the first examination in  
violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. §1447(b).

**PARTIES**

2. Plaintiff Xu Jun LEE, a citizen of the People's Republic of China, is a lawful permanent  
resident of the United States (A#47 014 607). On May 1, 2006, Plaintiff was interviewed for his  
naturalization application(**Exhibit 1**). Defendants have failed to make a decision on the  
application within 120 days after the examination.

1 3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security  
2 (DHS), and this action is brought against him in his official capacity. He is generally charged with  
3 enforcement of the Immigration and Nationality Act, and is further authorized to delegate such  
4 powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. § 2.1.

5 4. Defendant Emilio T. Gonzalez, is the Director of the United States Citizenship and  
6 Immigration Service (USCIS), an agency within the DHS to whom the Secretary's authority has in  
7 part been delegated and is subject to the Secretary's supervision. Defendant Director is generally  
8 charged with the overall administration of benefits and immigration services. 8 C.F.R. § 100.2(a)

9 5. Defendant Robin Barrett, Field Office Director of San Francisco District Office, is an  
10 official of the USCIS generally charged with supervisory authority over all operations of the  
11 USCIS within her District with certain specific exceptions not relevant here. 8 C.F.R.  
12 §100.2(d)(2)(ii). As will be shown, Defendant Officer is the official with whom Plaintiff's  
13 naturalization application remains pending.

14 6. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI),  
15 the law enforcement agency that conducts security clearances for other U.S. government agencies,  
16 such as the Department of State. As will be shown, Defendant has failed to complete the security  
17 clearances on Plaintiff's cases.

### 18 JURISDICTION

19 7. Jurisdiction in this case is proper under the INA § 336(b) and 8 U.S.C. §1447(b). Relief is  
20 requested pursuant to said statutes.

### 21 VENUE

22 8. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a  
23 hearing on the matter in the District where Plaintiff resides.

### 24 CAUSE OF ACTION

25 9. Plaintiff is a lawful permanent resident of the United States. On May 1, 2006, Plaintiff  
26 was interviewed for his naturalization application (**Exhibit 1**). Plaintiff's application for  
27 naturalization has now remained un-adjudicated for more than twelve months from the date of the  
28 interview.

10. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements.

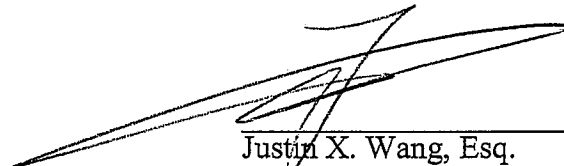
11. Defendants, in violation of 8 U.S.C. § 1447 (b), have failed to make a determination on Plaintiff's naturalization application within the 120-day period after the date of examination.

**PRAYER**

12. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order adjudicating the naturalization application. In the alternative, the Court may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application. In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to Justice Act and such other relief at law and in equity as justice may require.

Dated: May 18, 2007

Respectfully submitted,



Justin X. Wang, Esq.  
Attorney for Plaintiff

**LIST OF ATTACHMENTS**

<i>Exhibit</i>	<i>Description</i>
1	Letter from USCIS showing date of interview and request for additional evidence

EXHIBIT 1

U.S. Department of Homeland Security  
630 Sansome Street, Citizenship Branch  
San Francisco CA 94111



**U.S. Citizenship  
and Immigration  
Services**

XU JUN LEE

File No: A 047 014 607

Officer:

Date:

**MAY 17 2006**

cc:

Examination of your application (N400) shows that additional information, documents or forms are needed before your application can be acted upon. Please **RETURN THIS LETTER WITH REQUESTED INFORMATION and/or DOCUMENTATION by MAIL not later than: MAY 31, 2006**

***Failure to do so may result in the denial of your application.***

- ☐ A court certified complaint, disposition, sentence, and proof of fulfillment of sentence (i.e. completion of probation, completion of community service, completion of term of imprisonment) for any and all your arrests even if expunged. If no record is available, submit a certified letter from the court stating there is no record. No photocopy. You may provide evidence of good moral character. If you have questions regarding what is good moral character, then you may refer to the "Guide to Naturalization" at [www.uscis.gov](http://www.uscis.gov) or seek the advice of an immigration assistance organization. See INA §101(f); 8 C.F.R. §316.10.
- ☐ A Police clearance from all cities you have resided since \_\_\_ to present. (Documentation must be original and/or certified by the police)
- ☐ Proof of child support (e.g. copy of canceled checks, DA letter, notarized letter from child's other parent) for your children:
- ☐ Two copies of the birth and baptismal certificates for all children (with translations, if applicable).
- ☐ Marriage certificate from all marriages and/or petition and final divorce decree from former spouse(s).
- ☐ Copy of rent agreement, deed, insurance binder, utility bills, bank/credit statements for the last 6 months, or other specified evidence of marital union/residence: \_\_\_\_\_
- ☐ Copy of first two pages of income tax returns (forms 1040 & 540) and W-2's for you and your spouse for tax year(s) \_\_\_\_\_.
- ☐ A more detailed Form N-648 or letter from your medical doctor/psychiatrist to support your disability exception claim.
- ☐ List of all trips from \_\_\_ to \_\_\_ AND copies of all pages of your passports and/or travel documents.
- ☐ Proof of registration with the Selective Service or affidavit in regards to why you did not register for the Selective Service.
- ☐ ~~Copy of the front and back of your Alien Registration Card.~~
- ☒ Other: A CERTIFIED DMV (DEPARTMENT OF MOTOR VEHICLES) PRINTOUT.

Please notify this office of any address changes before the final decision in your case.